

SECTION II
REMARKS

Regarding the Amendments

Claims 1 and 11 have been amended as set forth in the above Complete Listing of the Claims. As amended, the claims are supported by the specification and the original claims. Specifically claims 1 and 11 have been amended to clarify the position of the first and second flank within the panel element. Amendment of the claims is illustratively supported by Figs. 1 and 2 of the application, where the first flank is element 41, the second flank is element 42, and the first side is element 13. No new matter has been added, as defined by 35 U.S.C. § 132.

Thus, upon entry of the amendments, claims 1-14 will be pending and under examination.

Claim objections

In the Office Action mailed August 18, 2008, the examiner has objected to claim 1 as containing the language "...the connecting element is positioned...", and suggested that the language should be "...the connecting element positioned..." Amendment in accordance with the examiner's suggestion has been made by the present Response. Withdrawal of the objection is respectfully requested.

Rejection of Claims 1-10 Under 35 U.S.C. §112

In the Office Action mailed August 18, 2008 the examiner has rejected claims 1-10 under 35 U.S.C. §112, second paragraph as being indefinite due to the recitation in the last two lines of claim 1. The examiner's attention is respectfully drawn to Section I above, where claim 1 has been amended to recite the positioning of the first and second flanks, relative to the first side of the panel element. Such structural fixtures and their relative positions are clearly illustrated in Figs. 1 and 2 of the application. By the amendment to claim 1, such position is clearly recited. Claim 1 no longer contains the language on which the rejection is based and the rejection is therefore moot.

Rejection of claims 1-9 and 11-12 under 35 U.S.C. §102

In the Office Action mailed August 18, 2008 the examiner has rejected claims 1-9 and 11-12 under 35 U.S.C. §102 as anticipated by DE20203311 (hereinafter "Huels et al."). Applicants

respectfully disagree.

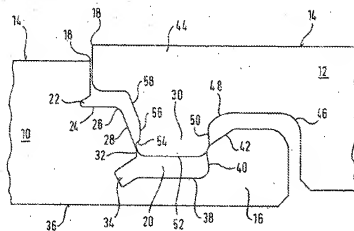
Anticipation of a claim requires the disclosure in a single prior art reference of each element of the claim under consideration. (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) It is respectfully submitted that Huels et al. does not provide all elements of the recited claims and therefore does not anticipate the invention.

The examiner's attention is respectfully drawn to Section I above and to the following elements of claim 1:

- i) an inclination of the first flank and the second flank each pointing from the center line outwards in the first section of the connecting element; and
- ii) the distance normal to the center line being reduced between the first flank and second flank in the second section.

With regard to element i, the features of Huels et al. analogous to the first and second flanks are sections 56/54 and 50, respectively, as illustrated in Fig. 1 of Huels et al.:

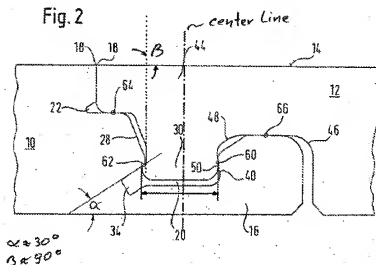
Fig. 1



Huels et al. describes the elements in relation to the figures at page 13, 2nd paragraph, lines 9-11: "to the inclined section 54 a section 56 being substantially normal to the surface 14 of the panel is adjoined" (Emphasis added) (in the original German version: "An diesen geneigten Bereich 54 schließt sich ein weitgehend senkrecht zur Plattenoberfläche verlaufender Bereich 56...an"). Fig. 1 of Huels et al. does not show an inclination of the first flank in the first section (56) in relation to the center line of the connecting element, as is recited in the present claim 1 with respect to the first flank. Huels et al. does not demonstrate a first flank pointing outwards from the center line in the first section as the center line of the connecting element is normal to the

surface 14 of the panel element as well.

With regard to element ii of claim 1 as listed above, the examiner's attention is respectfully drawn to element 30 illustrated in Fig. 2 of Huels et al. (center line added for emphasis):



Huels et al. describes the elements in relation to the figures at page 14, lines 7-8 that "the fin 30 is on the whole widened at the bottom". (Emphasis added) (in the original German version: "die an ihrer Unterseite insgesamt verbreitert ausgeführte Rippe 30"). By contrast, claim 1 of the present application recites a reduction of the dimension of the cross-section in the second section. Huels et al. does not demonstrate a second section with such dimensions.

Huels et al. illustratively show a connection between individual panels, where contact points 62 and 64 on opposite sides of 10 are embraced by the fin 30 with the sections 54, 56 and 58 (see Fig. 2). Because of the small contact area 62 at the projection 54 the transmission of forces caused by changes in the dimensions of the material due to climatic changes (temperature, humidity) is reduced.

However, the elements of the presently claimed panel element allow formation of a greater contact area 61 (see Fig. 3 of the application) which provides a good resistance to swelling of the material due to changes in temperature and/or humidity (see page 3, lines 1-5 of the specification).

As Huels et al. does not describe a panel element as set forth in claim 1, Huels et al. does not anticipate the claimed invention. Claims 2-9, all depend from claim 1, either directly or indirectly and by virtue of that dependency, contain all elements of claim 1. Claim 11 (and claim

12 dependent therefrom) recites an interlocking floor system comprising a panel element with the following characteristics:

“the cross-section of the connecting element is widened from the root region of the connecting element throughout the first section, and wherein in the first section the distance from the center line to the first flank is less than the distance from the center line to the second flank, and wherein in the second section, the distance from the center line to the first flank gradually increases at a constant angle while the distance from the center line to the second flank gradually decreases on an arcuating incline”

As described in detail above with respect to claim 1, such characteristics are not described in Huels et al.

Accordingly, Ledbetter et al. does not anticipate any of claims 2-9 and 11-12.

With regard to claim 4, specifically, the claim recites “wherein the inclination of the first flank is substantially constant in the second section and commensurates with the inclination of the first flank in the first section.” By its plain meaning “commensurate” indicates that the first flank has the same degree of inclination in the first and second section (see definition from Merriam Webster Online Dictionary, world wide web address: merriam-webster.com) This feature is also illustrated in Fig. 4 of the application showing a first flank having the same angle throughout the first and second sections.

In contrast, the examiner’s attention is respectfully drawn to Figs. 1 and 2 of Huels et al., reproduced above, where the first flank is shown to have an angle β in the first section (56) and an angle α in the second section (54), where $\beta = 90^\circ$ and $\alpha = 30^\circ$, relative to the longitudinal side of those panels. Thus, Huels discloses different degrees of inclinations of the first flank in the first and second sections. Therefore, the inclinations are different from each other but not commensurate with one another as recited in claim 4. Consequently, Huels does not anticipate the subject matter of claim 4.

Withdrawal of the rejection of claims 1-9 and 11-12 under 35 U.S.C. § 102(a) as anticipated by Huels et al. is respectfully requested.

Rejection of claim 10 under 35 U.S.C. §103

In the Office Action mailed August 18, 2008 the examiner has rejected claim 10 as obvious in

view of Huels et al. in view of U.S. Patent No. 5,797,237 (hereinafter "Finkell et al.") Applicants respectfully disagree.

As set forth in detail above, claim 1 is not anticipated by Huels et al., as Huels et al. does not describe all elements of claim 1. Claim 10 depends from claim 1 of the application and, by virtue of its dependency, inherently contains all elements of claim 1.

It is elemental law that in order for an invention to be obvious, all claim limitations must be disclosed or derivable from the cited combination of references, there must be a logical reason to combine the cited references to produce an operable combination and there must be a reasonable expectation of success. (MPEP §2143)

As Huels et al. does not disclose all elements of claim 1, Huels et al. also does not disclose all elements of claim 10. The recitation of Finkell et al. does not remedy this deficiency. Accordingly, Huels et al. in light of Finkell et al. does not render the claimed invention obvious. Accordingly, withdrawal of the rejection of claim 10 under 35 U.S.C. § 103 (a) as obvious over Huels et al. in light of Finkell et al. is respectfully requested.

CONCLUSION

All of Applicants' pending claims 1-14 are patentably distinguished over the art, and in form and condition for allowance. The Examiner is requested to favorably consider the foregoing and to responsively issue a Notice of Allowance.

The time for responding to the August 18, 2008 Office Action without extension was set at three months, or November 18, 2008. This Response is therefore timely and no fees are believed to be due for the filing of this paper. However, should any fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 08-3284, as necessary.

If any issues require further resolution, the Examiner is requested to contact the undersigned attorneys at (919) 419-9350 to discuss same.

Respectfully submitted,

Date: November 18, 2008

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